

### **REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

#### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants basically:

1. Editorially amend claims 36, 39, 60, 70 and 71.
2. Respectfully traverse all prior art rejections.

#### **B. AMENDMENTS TO THE CLAIMS**

Claim 36 has been amended to clearly indicate that the determining steps are in fact performed by the mobile terminal, thus the phrase “in said terminal” has been added where appropriate. In addition, the phrase “mobile communication station” has been amended to the phrase “mobile communication terminal”.

Claim 60 has been amended by exchanging the phrase “mobile communication station” with the phrase “mobile communication terminal”.

Claim 70 has been amended by exchanging the phrase “mobile communication station” with the phrase “mobile communication terminal”, in correspondence with claim 36.

Claim 71 has been amended by replacing “mobile communication station” with “mobile communication terminal”, and by adding the terms “first, second and third” to the first three units of the claim.

#### **C. PATENTABILITY OF THE CLAIMS**

Claims 36-39, 45, 51, 52, 54, 56, 58-62 and 68-77 stand rejected under 35 USC 102(b) as being anticipated by U.S. Publication 2003/0083069 to Vadgama. Claim 46 stands rejected under 35 USC §103(a) as being unpatentable over U.S. Publication

2003/0083069 to Vadgama in view of U.S. Publication 2002/0046292 to Tennisonl et al. Claim 47 stands rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication 2003/0083069 to Vadgama in view of U.S. Publication 2003/0156580 to Abraham et al. Claims 40-44, 48-50 and 63-67 stand rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication 2003/0083069 to Vadgama. Claims 53, 55 and 57 stand rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication 2003/0083069 to Vadgama in view of U.S. Publication 2004/0116110 to Amerga et al. All prior art rejections are respectfully traversed for at least the following reasons.

Applicants' specification discloses embodiments of a method and arrangement in which a terminal measures a load or usage or utilization of a radio access, typically in combination with a radio signal quality measurement, to estimate a user perceived quality measure of an access point or node. Thus, a user perceived data quality estimate is available prior to accessing a network, which takes load or utilization in to account, enabling a terminal-based best user quality access selection in a multi-access multi-operator environment. Basically, Applicants' technology enables a terminal based access network selection process.

US 2003/0083069 (hereinafter referred to as Vadgama) discloses cell selection techniques in cellular communications systems. Basically, a decision as to whether to use a cell for data transmission is made in dependence on a measure of a congestion level in the cell and potentially on measures of signal quality in the cells.

A main difference between Vadgama and the present disclosure is that Vadgama concerns site or cell selection. In other words, Vadgama discloses methods of Selecting a cell or site within one radio access network. In contrast, Applicants Select a radio access network from a plurality of available radio access networks.

Applicants have recognized that signal quality is typically not directly comparable between different radio access networks. Thus some of Applicants' claims use bitrate as a potential measure of quality. The solution according to Vadgama does not arrive at the problem solved by Applicants. Instead, by applying the teachings of Vadgama a best "bitrate" access selection will not be possible. Consequently, the Applicants solve a different problem compared to Vadgama and their claims are novel and non-obvious over Vadgama.

In the above regard, Applicants further request that the term "bit error rate" of Vadgama not be confused with the term "bitrate" as used in Applicants' claims. The bit rate is a measure of the number of bits that are conveyed or processed per unit of time. In contrast, the bit error rate or BER is the ratio of number of bits *incorrectly received* to a total number of bits. Consequently, the bit error rate mentioned in Vadgama is not relevant to Applicants' bitrate.

For reasons including those expounded above, the amended set of claims is deemed novel and non-obvious over Vadgama. The other references used in combination with Vadgama are not alleged to nor do they overcome the above deficiencies of Vadgama, for which reasons the dependent claims are all deemed patentable as well.

#### D. MISCELLANEOUS

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly requested.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,  
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